UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

JAN 22 2010

MEMORANDUM FOR HUMAN RESOURCES DIRECTORS

FROM: JEFFREY SUMBERG
Associate Director
Merit System Audit and Compliance

SUBJECT: Political Appointees and Career Civil Service Positions

On November 5, 2009, John Berry, Director, U.S. Office of Personnel Management (OPM), issued a memorandum to Federal agencies announcing changes to OPM's policy with respect to the hiring of political appointees for career civil service positions. A copy of the memorandum is available at http://www.chcoc.gov/Transmittals/TransmittalDetails.aspx?TransmittalID=2588.

OPM has prepared the attached series of Questions and Answers to respond to agency inquiries about the policy and to provide additional details that will help agencies meet the policy's requirements. If you need further information, please contact Ana A. Mazzi, Deputy Associate Director, Merit System Audit and Compliance, at ana.mazzi@opm.gov or (202) 606-2980.

Attachment

cc: Chief Human Capital Officers

OPM Policy on Political Appointees and Career Civil Service Positions

Questions and Answers

Q: Is this the first time OPM has put a policy in place covering the hiring of current or former political appointees for career civil service positions?

A: No. It has been OPM policy since the Carter Administration and under every President since to ensure that politics plays no role when political appointees are hired for career Federal jobs. In the past, OPM conducted a pre-hiring review of proposed appointments to the career competitive service during the year leading up to a Presidential election. Effective January 1, 2010, OPM's pre-hiring oversight will expand beyond the Presidential election year to ensure that, going forward, hiring of current or former political appointees -- whenever it occurs -- is fair, open, and free from political influence.

Q: What is different about the policy going into effect January 1, 2010, compared with previous OPM policy?

A: There are two changes in OPM's policy. First, as noted above, OPM will conduct pre-hiring reviews on a continuing basis, not just during the year leading up to a Presidential election. Second, we have expanded the scope of our review for future hiring decisions. In the past OPM only reviewed an agency's proposed hiring of a current or former political appointee when the career Federal job was in the competitive service. Under our new policy, OPM will review proposed hiring of current of former political appointees for jobs in the *excepted service* as well. OPM has a responsibility to ensure merit-based hiring for Federal jobs in both the excepted and competitive service.

Q: Why did OPM revise its policy in this way?

A: One of OPM's most important roles by law is to ensure that agencies comply with merit system principles and conduct fair and open competition for Federal jobs. OPM Director John Berry believes in upholding these principles every day of every year. That is why he embraced recommendations from OPM career staff to expand OPM's oversight to safeguard Federal hiring from political influence. The new policy is also in line with recommendations from the Government Accountability Office.

Q: How long will it take OPM to complete its pre-hiring review?

A: OPM will complete its review and notify the agency of our decision within 15 business days from the date we receive all of the information needed from the agency.

Q: What will OPM look for during its pre-hiring review?

A: OPM's objective is to safeguard fair and open competition and protect against political influence in the hiring for career Federal jobs. With this in mind, the two most common reasons

for OPM not to approve a proposed selection are 1) when the career job appears to have been created or tailored solely for the benefit of the current or former political appointee or, 2) when competition for the career job has been limited inappropriately.

Q: Why does OPM review the proposed hiring of individuals who held political positions as long as five years ago?

A: Consistent with past OPM policy, our review looks back five years to ensure we safeguard merit principles in consecutive Administrations.

Q: How will OPM determine the five-year period for former political appointees?

A: The period is determined by looking back five years from the closing date of the vacancy announcement. If an applicant for a career Federal job held a political appointment covered by OPM's policy during that five-year period, OPM will review the proposed selection to ensure it meets merit system principles. We recognize that vacancy announcements are not always used for excepted service positions. In such cases, the five-year period will be determined by looking back five years from the date an agency submits its request for pre-hiring review to OPM.

Q: Will OPM go back and review the hiring of former political appointees who are currently serving in career appointments?

A: No. The new policy only applies prospectively to hiring on or after January 1, 2010.

Q: Does OPM's pre-hiring review apply to a current political appointee who held a career Federal job in the past and is eligible for reinstatement?

A: It depends. OPM will not conduct a pre-hiring review if an agency wants to non-competitively select a current or former political appointee for reinstatement to a Federal job at the *same or lower grade* than previously held. However, OPM will review the proposed selection of a current or former political appointee who is competing for a career Federal job at a *higher grade or with greater promotion potential* than the career job previously held.

Q: Does OPM's pre-hiring review apply to proposed selections for Senior Level (SL) and Scientific or Professional (ST) positions?

A: Yes.

Q: Will OPM review proposed appointments under the Federal Career Intern Program?

A: Yes

Q: Which Schedule A political appointees are subject to OPM's pre-appointment review?

A: Consistent with past OPM policy, appointments made under the following Schedule A authorities are subject to pre-hiring review:

- Appointments made by the President without confirmation by the Senate [5 CFR 213.3102(c)].

- Assistants to top level Federal officials if the position is being filled by a person designated by the President as a White House Fellow [5 CFR 213.3102(z)].

Q: Does OPM's policy apply to a former political appointee who is a current career Federal employee and who applies for another Federal job?

A: No. For example, a person who was a political appointee in 2007 and was hired for a career Federal job in 2008 can apply for and be selected for another career Federal job and OPM will not review the selection under the new policy.

Q: Will OPM conduct a pre-hiring review when an agency wants to select a current or former political appointee for a temporary or term position?

A: No. We will not review temporary or term appointments.

Q: Are there other circumstances under which OPM will not review the proposed hiring of a current of former political appointee for a career position?

A: Yes. We will not review hiring under 5 CFR 315, subpart F, and 5 CFR 337, subpart B. These regulations allow for non-competitive appointments to the Federal civil service under certain conditions (e.g. direct-hire; the appointment of 30 percent or more disabled veterans; the appointment of Peace Corps personnel and certain former overseas employees). We also will not review appointments made under the Student Career Experience Program (SCEP).

Q: Will the policy change the way OPM conducts merit staffing reviews and the Qualifications Review Board for SES applications?

A. No. OPM will continue to conduct merit staffing reviews first followed by the Qualifications Review Board.